

Message Text

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FROM LOS DEL

E.O. 11652: N/A

TAGS: PLOS

SUBJECT: US COMMENTS ON THE NEW EVENSEN TEXT ARTICLES 64 AND 65
REVIEW

THE FOLLOWING STATEMENT WAS DELIVERED BY AMBASSADOR
RICHARDSON AT THE CHAIRMAN'S WORKING GROUP ON COMMITTEE I,
TUESDAY, JUNE 7:

QUOTE

TAKING POINTS ON EVENSEN
NEW ARTICLES 64 AND 65 (REVIEW)

MR. CHAIRMAN, MY DELEGATION BELIEVES THAT THE PRO-
VISIONS FOR REVIEW, ADVANCED BY AMBASSADOR CASTANEDA AT
GENEVA AND CONTAINED, WITH CERTAIN MODIFICATIONS, IN
THE EVENSEN TEXT CAN REPRESENT AN IMPORTANT MEANS TO
THE END WE ALL SEEK--AGREEMENT NOW ON A BROADLY ACCEPTABLE
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COMPROMISE REGIME TO GOVERN SEABED MINING, DESPITE THE
DIFFERENT PERSPECTIVES OUR NATIONS BRING TO BEAR UPON
THIS PROBLEM.

WE WISH TO STRESS, HOWEVER, THE ESSENTIAL POINT THAT
THE TEXT MUST LEAVE OPEN THE OUTCOME OF THE REVIEW. WHILE
WE WOULD LIKE TO SEE THE PROVISIONS FOR ACCESS BY STATES

PARTIES AND STATE-SPONSORED ENTITIES MADE PERMANENT, AS THE SOVIET UNION HAS URGED, WE WOULD NOT INSIST ON THIS. CONVERSELY, WE CANNOT ACCEPT A PREDETERMINED OUTCOME IN FAVOR OF A UNITARY SYSTEM.

MEANWHILE, IT IS IMPORTANT THAT WE AVOID MAKING THE PROCEDURAL AND LEGAL QUESTION RAISED BY THE REVIEW A NEW ISSUE OF CONTENTION. IN THE SPIRIT OF REALISM, THEREFORE, I WOULD LIKE TO MAKE A FEW COMMENTS REGARDING MY COUNTRY'S UNDERSTANDING OF THE PROPER CONDUCT AND EFFECT OF ANY REVIEW.

WE HAVE SOME OF THE SAME MISGIVINGS TOWARD THE FIVE YEAR "REVIEW" BY THE ASSEMBLY CALLED FOR IN ARTICLE 64 THAT HAVE BEEN EXPRESSED BY THE FRG AND THE UNITED KINGDOM. IT IS OUR UNDERSTANDING, HOWEVER, THAT THE ASSEMBLY WOULD NOT BE EMPOWERED BY ARTICLE 64 TO AMEND PART I OF THE CONVENTION OF ITS ANNEXES OR, FOR THAT MATTER, TO DO ANYTHING EXCEPT ADOPT, OR RECOMMEND THAT THE COUNCIL ADOPT, RULES AND REGULATIONS DESIGNED TO IMPROVE THE EXISTING REGIME. THE LANGUAGE OF ARTICLE 64 AS DRAFTED MAY BE SOMEWHAT UNCLEAR ON THIS POINT. SO THAT THERE WILL BE NO CONFUSION, WE WOULD RECOMMEND THAT ARTICLE, THE SECOND SENTENCE, BE AMENDED TO READ "IN THE LIGHT OF THE SAID REVIEW, AND IN ACCORDANCE WITH THE PROVISIONS AND PROCEDURES OF PART I OF THIS CONVENTION AND THE ANNEXES THERETO, THE ASSEMBLY MAY ADOPT, OR RECOMMEND OTHER ORGANS TO ADOPT, RULES AND REGULATIONS WHICH LEAD TO THE IMPROVEMENT OF THE AFOREMENTIONED REGIME AND TO ITS

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BETTER ADAPTATION TO CHANGING CIRCUMSTANCES." THIS ADDITIONAL LANGUAGE WOULD MAKE IT INESCAPABLY CLEAR THAT THE ASSEMBLY MAY NOT, AS A RESULT OF THIS FIVE-YEAR "REVIEW," MAKE ANY AMENDMENT TO PART I OF THIS CONVENTION OR ITS ANNEXES, AND THAT THE FIVE-YEAR REVIEW PROVISION DOES NOT ALTER THE POWERS AND FUNCTIONS OF THE ASSEMBLY OR ANY OTHER ORGAN OF THE AUTHORITY UNDER THE TREATY.

YESTERDAY AFTERNOON, MR. CHAIRMAN, I BELIEVE YOU SAID THAT IT IS YOUR INTERPRETATION OF ARTICLE 65 THAT A STATE PARTY TO THE CONVENTION WOULD BE BOUND BY THE PRODUCT OF REVIEW 20-25 YEARS FROM NOW WITHOUT RESORT TO NORMAL, CONSTITUTIONAL MEANS OF RATIFICATION OF THE AMENDMENTS WHICH MIGHT RESULT. WHILE NOT ENDORSING THAT INTERPRETATION, THE UNITED STATES IS WILLING TO ACCEPT THE SCHEME IN ARTICLE 65(4) BY WHICH THE FUTURE REVIEW CONFERENCE SHOULD DETERMINE ITS SYSTEM OF VOTING SUBJECT TO CERTAIN MINIMUMS. IT MUST BE CLEAR, ON THE OTHER HAND, THAT ANY CHANGES RESULTING FROM THE CONFERENCE, IF THEY

ALTER THE SYSTEM OF EXPLOITATION, WOULD HAVE TO BE RATIFIED. THIS IS A POLITICAL AND LEGAL REALITY. ON THE OTHER HAND, WE NEED NOT NOW DECIDE SUCH QUESTIONS AS THE PRECISE PROCEDURES, NUMBER OF NECESSARY RATIFICATIONS, OR SITUATION OF STATES THAT DO NOT RATIFY.

THEREFORE, MR. CHAIRMAN, WE RECOMMEND THAT ARTICLE 65(4) BE AMENDED TO STATE THAT "THE CONFERENCE SHALL DETERMINE THE SYSTEM OF VOTING, RATIFICATION AND ENTRY INTO FORCE PROCEDURES, AND SUCH OTHER REQUIREMENTS AS MAY BE NEEDED TO AMEND PART I OF THE CONVENTION AND THE ANNEXES THERETO, TAKING INTO ACCOUNT THE CONSTITUTIONAL REQUIREMENTS OF STATES PARTIES WITH REGARD TO APPROVAL OR RATIFICATION OF INTERNATIONAL TREATIES."

FINALLY, MR. CHAIRMAN, I WOULD LIKE TO NOTE OUR SUPPORT FOR RECOMMENDATIONS PUT FORWARD BY OTHER DELEGATIONS, THAT
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THE COUNCIL AND THE ASSEMBLY PREPARE COMPREHENSIVE RECOMMENDATIONS FOR THE CONDUCT OF THE REVIEW CONFERENCE. BY THIS MEANS THE WORK OF THE REVIEW CONFERENCE WILL BE FACILITATED AND ITS PARTICIPANTS WILL HAVE BEFORE THEM TEXTS REFLECTING THE EXPERIENCE AND CONSIDERED JUDGEMENTS OF THE AUTHORITY BASED UPON 20 YEARS OF ACTIVITIES IN THE AREA. UNQUOTE

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